

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 01-cr-40017-JPG

DEREK A. WAITHE,

Defendant.

MEMORANDUM & ORDER

J. PHIL GILBERT, DISTRICT JUDGE

This matter comes before the Court on the defendant Derek A. Waithe's motion for an extension of time to file a notice of appeal. (Doc 602.) On July 12, 2017, this Court filed a sealed order (Doc. 590) denying a sealed motion (Doc. 587) filed by Waithe. Any appeal of this order was due on July 26, 2017. *See* Fed R. Crim. P. 4(b)(1)(A)(i). Waithe appealed the order on August 11 (postmarked August 9), and the Seventh Circuit denied his appeal for untimeliness. Now, Waithe claims that he is entitled to an extension of time because the Court "did not send [notice of the July 12 order] out until two weeks later, on July 28, 2017"—which allegedly caused his untimely delay in filing the appeal. Waithe's allegation, however, is incorrect: according to internal ECF records, the Court mailed a copy of the sealed order to him on July 13, not July 28. Moreover, Fed R. Crim. P. 4(b)(4) only gives this Court authority to extend the time to file a notice of appeal for a "period not to exceed 30 days" from when the appeal was originally due. That 30-day period—ending on August 25, 2017—has long passed. Accordingly, Waithe's motion is **DENIED**.

IT IS SO ORDERED.

DATED: October 13, 2017

**s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE**